

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3429 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

MANUBHAI G BAROT

Appearance:

MR Hardik Raval for Petitioner

MR BG JANI for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 15/10/1999

ORAL JUDGEMENT

Heard the learned advocates for the parties. The facts of the present case, in short, are that the respondent herein was working as a conductor in the petitioner Corporation and that he was chargesheeted on 8th September, 1977 wherein it was alleged that when he was on duty on Surat Patan Route on 3/4.8.1977, his bus was checked at Hadiana and it was found that he had

issued certain tickets but had not made entry in the way bill and further the tickets of some denomination were not available in the tray. On the basis of the said misconduct alleged to have committed by the respondent workman, a departmental inquiry was initiated against him and ultimately, the competent authority imposed punishment of stoppage of three annual increment with permanent effect. Thereafter, the case was reviewed in appeal by the reviewing authority and a show cause notice was issued to the respondent and ultimately, the punishment was enhanced to that of stoppage of six annual increments with permanent effect, instead of stoppage of three annual increments with permanent effect.

Said order of punishment was challenged by the workman by raising industrial dispute which was referred to the Industrial Tribunal at Ahmedabad being Reference (IT) No. 452 of 1979. The tribunal considered the papers of inquiry and the findings given by the competent authority as well as the reviewing authority. The tribunal has come to the conclusion that the workman has admitted some negligence on his part. After considering the evidence on record, the tribunal considered that the withholding of six annual increments with future effect would be harsh and the loss would be recurring for ever and would be severe in these days of high cost of living and also it would have very bad effect on the workman and, therefore, considering all these facts and circumstances of the case and the documents on record, the tribunal thought it fit to reduce and modify the punishment from stoppage of six annual increments to stoppage of one increment with future effect.

Mr. Raval, the learned advocate appearing for the petitioner corporation has pointed out that the tribunal has no jurisdiction to interfere with such minor penalty other than dismissal and, therefore, this award is required to be quashed and set aside.

I have considered the submissions of Mr. Raval. The Tribunal has considered the submissions of Mr. Raval. The Tribunal has discussed the evidence, charges and has also considered the effect of punishment which has been imposed by the reviewing authority in withholding six annual increments with future effect. The tribunal found that there was no charge of misappropriation levelled against the workman and merely on the basis of presumption of misappropriation, such punishment cannot be imposed upon the respondent workman and, therefore, the tribunal reduced the punishment. According to my view, the tribunal has exercised the

discretion vested in it under section 11A in modifying the punishment and the tribunal is quite justified in doing so. The tribunal has not committed any error and no infirmity has been pointed out which requires interference of this court while exercising the powers under Article 226/227 of the Constitution of India.

Mr. Raval, the learned advocate appearing for the petitioner Corporation has submitted that while admitting this petition, interim relief was granted by this Court against the payment of difference of amount on a condition that in case, the petitioner Corporation fails in the petition, the Corporation shall pay the amount of difference as directed by the Tribunal to the respondent with 15% interest. He has submitted that now, the petitioner cannot be directed to pay interest on the amount of difference as directed by the Tribunal as, according to him, the petitioner Corporation is a public body and once this Court has stayed the implementation of the award, then, such terms cannot be directed to be continued as it would unnecessarily create burden upon the Corporation which is running in loss. He, therefore, prayed that the petitioner should not be directed to pay the amount of difference with 15% interest. The Tribunal passed the impugned award on 17th September, 1988 directing the petitioner to pay the said amount to the respondent workman within three months from the date of coming into operation of the impugned award. I am of the opinion that it would be just and proper to direct the petitioner Corporation to pay the said amount to the respondent workman within some stipulated period without interest while dismissing this petition.

In the result, the petition is dismissed. Rule is discharged. Interim relief granted earlier shall stand vacated. There shall be no order as to costs.

The petitioner Corporation is directed to pay to the respondent workman the amount of arrears as directed by the Tribunal within three months from the date of receipt of certified copy of this judgment.

15.10.1999. (H.K.Rathod,J.)